

Notice of Allowability	Application No.	Applicant(s)	
	09/978,132	ZICKER ET AL.	
	Examiner	Art Unit	
	Phyllis G. Spivack	16:14	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the RCE and Amendment filed September 13, 2004.
2. ☒ The allowed claim(s) is/are 12, 13, 15, 17-22, 28, 30, now renumbered 1-11.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____ |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date <u>September 17, 2004</u> | 7. <input type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

REASONS FOR ALLOWANCE

Applicants' Request for Continued Prosecution (RCE) filed September 17, 2004 is acknowledged and accepted. Claims 14, 16, 23-27, 29 and 31 are canceled. Claims 12, 13, 15, 17-22, 28 and 30 are pending wherein the administration of an antioxidant diet is administered to a canine or feline companion pet when it is 1 to 6 years old.

An Information Disclosure Statement filed September 17, 2004 is further acknowledged and has been reviewed.

In the last Office Action claims 12-22, 26 and 28-31 remained rejected under 35 U.S.C. 103 as being unpatentable over Hamilton, N.D., U.S. Patent 6,335,361. It was asserted Hamilton teaches the administration of pet food formulations comprising I-lipoic acid, I-carnitine and vitamins C and E to improve mental acuity and to treat cognition disorders associated with aging. Further, in the last Office Action the rejection of claims 12, 13 and 26 under 35 U.S.C. 102(a) as being anticipated by Milgram et al., Internet site, was maintained. Milgram teaches the administration of a broad spectrum of antioxidants to improve learning in aged dogs.

No teaching is found in the prior art specifically requiring the administration of an antioxidant mixture in the diet of a canine or feline companion pet when it is 1 to 6 years old to inhibit the onset of deterioration of mental capacity, to improve its ability to resist oxidative damage or to inhibit the loss of learning ability when it is 7 years or older.

Accordingly, the art rejections of record are withdrawn. No motivation or suggestion to administer an antioxidant mixture in the diet of a canine or feline

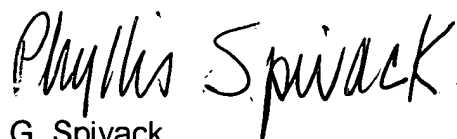
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companion pet when it is 1 to 6 years old to inhibit the onset of deterioration of mental capacity, to improve its ability to resist oxidative damage or to inhibit the loss of learning ability when it is 7 years or older is provided by the prior art. Thus in view of the contemporary knowledge of the art, claims 12, 13, 15, 17-22, 28 and 30 are allowed.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Phyllis G. Spivack whose telephone number is 571-272-0585. The Examiner can normally be reached Monday to Friday from 10:30 AM to 7 PM.

If attempts to reach the Examiner by telephone are unsuccessful after one business day, the Examiner's supervisor, Chris Low, can be reached at 571-272-0951. The fax phone number for the organization where this application or proceeding is assigned is 571-272-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Phyllis G. Spivack
Primary Examiner
Art Unit 1614

PHYLLIS SPIVACK
PRIMARY EXAMINER

February 20, 2005